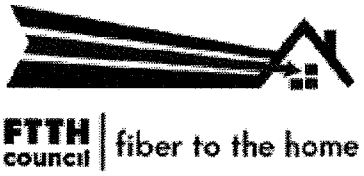

December 23, 2009

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 - 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation, *International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act,* GN Docket No. 09-47; *A National Broadband Plan for our Future,* GN Docket 09-51; *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, A National Broadband Plan for Our Future,* GN Docket No. 09-137

Dear Ms. Dortch:

The Fiber-to-the-Home Council ("FTTH Council") commissioned the research firm RVA LLC to study all 57 municipal FTTH operators serving 87 communities in North America. One aspect of this study was to examine differences in market results between systems that operate on an open access model (of which there are 11 systems, including nine in the United States) with those that operate on the retail model (46 systems).

A system is generally considered "Open Access" when the municipality or public utility owns and installs the fiber infrastructure but does not market the services provided to subscribers over the network. In such cases, the municipality invites multiple other service providers – who may be voice-only, Internet-only or triple play providers – to

market their services to the end user over its network. These service providers typically pay a wholesale rate back to the municipality that owns and operates the infrastructure. (Note that in two of the 11 open access systems, the municipality retails its own services but also offers access to other providers.)

Most of the U.S. municipal open access systems are located in two states, Utah and Washington, both of which have state laws that restrict public entities from directly marketing communications services.

The RVA study found that, in the aggregate, municipal FTTH systems operated on the retail model have twice the take-rate (that is, the percentage of homes offered the service that sign up to receive it) of those systems operating on the open access model – 46 percent for retail to 23 percent for open access. RVA also reported that systems that have been in existence for several years and are no longer expanding rapidly have a similar gap (54 percent versus 30 percent). Details on the study are below (with a list of the municipal systems studied attached as Appendix A):

ESTIMATES OF US MUNICIPAL FTTH Take rate comparisons

As Of October 1, 2009 RVA LLC		Homes Connected	Homes Passed	Total	Estimated Take Rates of Stable systems after 4 years
Wholesale (Open access) Muni FTTH Systems	11	29,300	125,200	23%	30%
Retail Muni FTTH Systems	46	129,950	282,800	46%	54%
Total Muni FTTH Systems	57	159,250	408,000	39%	

The FTTH Council believes these data are significant enough to raise a "caution flag" for policymakers about the value of the open access model and definitely warrant further investigation. It intends to examine these municipal systems to determine if the differences in penetration levels are due to factors other than the difference between retail and open access providers.

Sincerely,

Joseph P. Savage

Joe Savage
President, FTTH Council
(503) 635-3114

cc: Kevin King

APPENDIX A

MUNICIPAL SYSTEMS CURRENTLY SERVING RESIDENTIAL CUSTOMERS WITH FIBER TO THE HOME

NORTH AMERICA – 87 cities via 57 operators

Communities in italics are operated on the open access model.

1 Abingdon, VA
2 *Allyn, WA*
3 *Ardenvoir, WA*
4 Ashland, OR
5 Auburn, IN
6 Baldwin, WI
7 Barnesville MN
8 *Belfair, WA*
9 Bellevue, IA
10 Bristol TN
11 Bristol VA
12 Brookings, SD
13 *Burlington VT*
14 *Cashmere, WA*
15 Cedar Falls IA
16 Chattanooga TN
17 *Chelan Falls, WA*
18 *Chelan, WA*
19 Churchill County, NV
20 Clarksville TN
21 Cornelius, NC
22 *Coulee City, WA*
23 Crawfordsville IN
24 Crosslake MN
25 Dalton GA
26 *Danville VA*
27 Davidson, NC
28 *Diamond Lake, WA*
29 *Dryden, WA*
30 *Entiat, WA*
31 *Ephrata, WA*
2 Gainesville FL
33 Glasgow KY
34 *Hartline, WA*
35 Holland MI
36 Independence OR
37 Jackson TN
38 Ketchikan AK
39 Kutztown PA
40 Lafayette LA
41 *Lakewenatc, WA*
42 *Leavenworth, WA*
43 Lenox IA
44 *Lindon, UT*
45 *Loma Linda CA*
46 *Malaga, WA*
47 *Manson, WA*
48 Marshall MO
49 *Mattawa, WA*
50 *Midvale, UT*
51 *Monitor, WA*
52 Monmouth OR
53 Monticello MN
54 Mooresville, NC
55 Morristown TN
56 *Moses Lake, WA*
57 *Murray, UT*
58 North Kansas City MO
59 *Orem, UT*
60 *Payson, UT*
61 *Peshatin, WA*
62 Phillipi WV
63 Powell WY
64 Pulaski TN
65 Quincy FL
66 *Quincy, WA*
67 *Radium Hot Springs BC*
68 Reedsburg WI
69 Rochelle, IL
70 *Royal City, WA*

71 Sallisaw OK
72 *Sequim, WA*
73 Shawano WI
74 *Shelton, WA*
75 *Soap Lake, WA*
76 Sparwood BC
77 Spencer IA
78 St. Charles, VA
79 Sylacauga AL
80 Taunton MA
81 Tifton GA
82 Tullahoma TN
83 *Warden, WA*
84 *Wenatchee WA*
85 West Valley City, UT
86 Wilson NC
87 Windom MN